



PATENT  
06005/35530

2152  
A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Havekost et al. ) I hereby certify that this paper is  
Serial No.: 09/777,225 ) being deposited with the United  
For: HIERARCHICAL ) States Postal Service as first-class  
FAILURE MANAGEMENT ) mail, postage prepaid, in an  
FOR PROCESS CONTROL ) envelope addressed to:  
SYSTEMS ) Commissioner for Patents,  
 ) Washington, D.C. 20231, on this  
 ) date:  
Filed: February 5, 2001 ) October 17, 2001  
Group Art Unit: 2152 )  
Examiner: Not yet assigned ) Ray A. Heppermann  
 ) Roger Heppermann  
 ) Registration No. 37,641  
 ) Attorney for Applicants

PETITION TO CORRECT INVENTORSHIP  
UNDER 37 C.F.R. § 1.48(a)

Commissioner for Patents  
Washington, D.C. 20231

Sir:

Request to Correct Inventorship

Applicants hereby request pursuant to 37 C.F.R. § 1.48(a) to have Michael G. Ott added as an inventor to the above-identified application. As corrected, the named inventors should be joint inventors, Robert B. Havekost, David L. Deitz , Dennis L. Stevenson, William G. Irwin and Michael G. Ott.

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Submitted herewith are the following documents:

(a) a statement of Michael G. Ott, that his name was omitted from the originally filed declaration through an error that arose without deceptive intention;

(b) a Declaration for Patent Application and Power of Attorney, signed by each of the actual inventors, Robert B. Havekost, David L. Deitz , Dennis L. Stevenson, William G. Irwin and Michael G. Ott as required by 37 C.F.R. § 1.63;

(c) a copy of an Assignment by Michael G. Ott to Assignee, Fisher-Rosemount Systems, Inc.;

(d) an Assignee's Consent to the Correction of Inventorship containing the written consent of the assignee, Fisher-Rosemount Systems, Inc., to the addition of Michael G. Ott as an inventor; and

(e) a check in the amount of \$130.00 is enclosed with this paper for payment of the petition fee under 37 C.F.R. § 1.17(i).

**PATENT**  
06005/35530

The Commissioner is hereby authorized to charge any deficiency in the amount enclosed or any additional fees which may be required to Deposit Account No. 13-2855. A copy of this paper is enclosed.

Respectfully submitted,

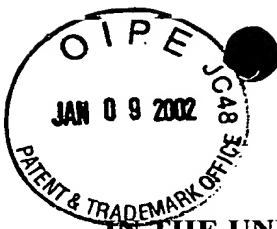
MARSHALL, GERSTEIN & BORUN  
233 South Wacker Drive  
6300 Sears Tower  
Chicago, IL 60606-6357  
(312) 474-6300

By:



Roger Heppermann  
Attorney for Applicants  
Registration No. 37,641

October 17, 2001



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CONTROL SYSTEMS ) envelope addressed to:  
Filed: February 5, 2001 ) Commissioner for Patents,  
Group Art Unit: 2152 ) Washington, D.C. 20231, on this  
Examiner: Not yet assigned ) date:  
 ) October 17, 2001  
 ) [Signature]  
 ) Roger Heppermann  
 ) Registration No. 37,641  
 ) Attorney for Applicants

STATEMENT OF MICHAEL G. OTT  
UNDER 37 C.F.R. § 1.48(a) TO CORRECT INVENTORSHIP

Commissioner for Patents  
Washington, D.C. 20231

Sir:

I, Michael G. Ott, hereby declare and state:

Through inadvertent error and mistake, and without deceptive intention, an incorrect inventive entity was named in the above-identified application. The subject matter of the application is a joint invention of Robert B. Havekost, David L. Deitz, Dennis L. Stevenson, William G. Irwin and Michael G. Ott.

Date: 10-12-01

Michael G. Ott

Michael G. Ott  
10216 Talleyran Drive  
Austin, Texas 78750

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Havekost et al.	)	I hereby certify that this paper is
	)	being deposited with the United
Serial No.: 09/777,225	)	States Postal Service as first-class
	)	mail, postage prepaid, in an
For: HIERARCHICAL FAILURE	)	envelope addressed to:
MANAGEMENT FOR PROCESS	)	Commissioner for Patents,
CONTROL SYSTEMS	)	Washington, D.C. 20231, on this
	)	date:
Filed: February 5, 2001	)	
	)	<u>October 17</u> , 2001
Group Art Unit: 2152	)	
	)	<u>Roger Heppermann</u>
Examiner: Not yet assigned	)	Roger Heppermann
	)	Registration No. 37,641
	)	Attorney for Applicants

ASSIGNEE'S CONSENT TO CORRECTION OF INVENTORSHIP  
UNDER 37 C.F.R. § 1.48(a)

Commissioner for Patents  
Washington, D.C. 20231

Sir:

Fisher-Rosemount Systems, Inc., 8301 Cameron Road, Austin  
Texas, 78754, as assignee of the entire right, title and interest in the above-  
identified application under an assignment executed by Robert B. Havekost,  
David L. Deitz, Dennis L. Stevenson and William G. Irwin on January 29,  
2001, and recorded at Frame 0090 Reel 011794, hereby consents to the  
addition of Michael G. Ott as named inventor.

**PATENT**  
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The undersigned has authority to act on behalf of the assignee,  
Fisher-Rosemount Systems, Inc.

Fisher-Rosemount Systems, Inc.

By:

Ron Edde

Printed Name:

RON EDDE

Title:

V.P. TECHNOLOGY

Dated: 10/12/01

JAN 09 2002

## DECLARATION FOR PATENT APPLICATION AND POWER OF ATTORNEY

I, a below named inventor, I hereby declare that my residence, post office address and citizenship are as stated below next to my name. I believe that I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled "**HIERARCHICAL FAILURE MANAGEMENT FOR PROCESS CONTROL SYSTEMS**," the specification of which was filed on February 05, 2001 as Application Serial No. 09/777,225. I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment(s) referred to above. I acknowledge the duty to disclose to the Patent and Trademark Office all information known to me to be material to patentability as defined in 37 C.F.R. §1.56.

I hereby claim foreign priority benefits under 35 U.S.C. §119 of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed:

			Priority Claimed	
(Application Serial Number)	(Country)	(Day/Month/Year Filed)	<input type="checkbox"/> Yes	<input type="checkbox"/> No
_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(Application Serial Number)	(Country)	(Day/Month/Year Filed)	Yes	No

_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(Application Serial Number)	(Country)	(Day/Month/Year Filed)	Yes	No

I hereby claim the benefit under 35 U.S.C. §119(e) of any United States provisional application(s) listed below:

_____	_____
(Application Serial Number)	(Day/Month/Year Filed)
_____	_____
(Application Serial Number)	(Day/Month/Year Filed)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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POWER OF ATTORNEY: I hereby appoint as my attorneys, with full powers of substitution and revocation, to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

John B. Lungmus(18,566)  
Allen H. Gerstein (22,218)  
Nate F. Scarpelli (22,320)  
Michael F. Borun (25,447)  
Carl E. Moore, Jr. (26,487)


Richard H. Anderson (26,526)  
Patrick D. Ertel (26,877)  
Richard B. Hoffman(26,910)  
James P. Zeller (28,491)  
Kevin D. Hogg (31,839)  
Jeffrey S. Sharp (31,879)

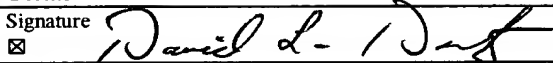
Martin J. Hirsch (32,237)  
James J. Napoli (32,361)  
Richard M. La Barge (32,254)  
Robert M. Gerstein (34,824)  
Anthony G. Sitko (36,278)  
Alan L. Carlson (40,939)

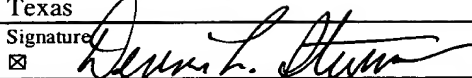
James A. Flight (37,622)  
Roger A. Heppermann (37,641)  
David A. Gass (38,153)  
Gregory C. Mayer (38,238)  
Michael R. Weiner (38,359)  
William K. Merkel (40,725)  
Dale A. Kubly (27,569)  
Michael L. Sheldon (32,001)

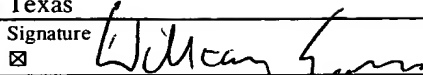
Send correspondence to: Roger Heppermann

FIRM NAME	PHONE NO.	STREET	CITY & STATE	ZIP CODE
Marshall, Gerstein & Borun	312-474-6300	6300 Sears Tower 233 South Wacker Drive	Chicago, Illinois	60606-6402

Full Name of First or Sole Inventor <b>Robert B. Havekost</b>	Citizenship <b>United States of America</b>
Residence Address - Street <b>14507 Crystal Court</b>	Post Office Address - Street <b>14507 Crystal Court</b>
City (Zip) <b>Austin (78728)</b>	City (Zip) <b>Austin (78728)</b>
State or Country <b>Texas</b>	State or Country <b>Texas</b>
Date <input checked="" type="checkbox"/> <b>Oct 12, 2001</b>	Signature <input checked="" type="checkbox"/> 

Second Joint Inventor, if any <b>David L. Deitz</b>	Citizenship <b>United States of America</b>
Residence Address - Street <b>5915 Mountain Villa Drive</b>	Post Office Address - Street <b>5915 Mountain Villa Drive</b>
City (Zip) <b>Austin (78731)</b>	City (Zip) <b>Austin (78731)</b>
State or Country <b>Texas</b>	State or Country <b>Texas</b>
Date <input checked="" type="checkbox"/> <b>10/12/2001</b>	Signature <input checked="" type="checkbox"/> 

Third Joint Inventor, if any <b>Dennis L. Stevenson</b>	Citizenship <b>United States of America</b>
Residence Address - Street <b>16904 Sabertooth Drive</b>	Post Office Address - Street <b>16904 Sabertooth Drive</b>
City (Zip) <b>Round Rock (78681)</b>	City (Zip) <b>Round Rock (78681)</b>
State or Country <b>Texas</b>	State or Country <b>Texas</b>
Date <input checked="" type="checkbox"/> <b>OCT 15 2001</b>	Signature <input checked="" type="checkbox"/> 

Fourth Joint Inventor, if any <b>William G. Irwin</b>	Citizenship <b>United Kingdom</b>
Residence Address - Street <b>5116 Eagle Trace Trail</b>	Post Office Address - Street <b>5116 Eagle Trace Trail</b>
City (Zip) <b>Austin (78730)</b>	City (Zip) <b>Austin (78730)</b>
State or Country <b>Texas</b>	State or Country <b>Texas</b>
Date <input checked="" type="checkbox"/> <b>10/12/2001</b>	Signature <input checked="" type="checkbox"/> 



Fifth Joint Inventor, if any Michael G. Ott	Citizenship United States of America
Residence Address - Street 10216 Talleyran Drive	Post Office Address - Street 10216 Talleyran Drive
City (Zip) Austin (78750)	City (Zip) Austin (78750)
State or Country Texas	State or Country Texas
Date <input checked="" type="checkbox"/> 10-12-01	Signature <input checked="" type="checkbox"/> Michael G. Ott

37 CFR 1.56. DUTY OF DISCLOSURE - INFORMATION MATERIAL TO PATENTABILITY (Applicable Portion)

(a) ~~A person~~ By its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentability defines, to make sure that any material information contained therein is disclosed to the Office.

Information relating to the following factual situations enumerated in 35 USC 102 and 103 may be considered material under 37 CFR 1.56(a).

35 U.S.C. 102. CONDITIONS FOR PATENTABILITY: NOVELTY AND LOSS OF RIGHT TO PATENT

A person shall be entitled to a patent unless --

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent, or
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States, or
- (c) he has abandoned the invention, or
- (d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months before the filing of the application in the United States, or
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraph (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent, or
- (f) he did not himself invent the subject matter sought to be patented, or
- (g) before the applicant's invention thereof the invention was made in this country by another who had not abandoned, suppressed, or concealed it. In determining priority of invention there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other.

35 U.S.C. 103. CONDITIONS FOR PATENTABILITY; NON-OBVIOUS SUBJECT MATTER (Applicable Portion)

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

35 U.S.C. 112. SPECIFICATION (Applicable Portion)

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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## A S S I G N M E N T

Serial No: 09/777,225  
Filed: February 5, 2001  
Title: HIERARCHICAL FAILURE MANAGEMENT FOR PROCESS CONTROL SYSTEMS

For \$10.00, and other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, the undersigned hereby assigns to Fisher-Rosemount Systems, Inc., a Delaware corporation, 8301 Cameron Road, Austin, Texas 78754, (hereinafter "Assignee"), its successors and assigns, the entire right, title and interest in the invention or improvements of the undersigned disclosed in an application for Letters Patent of the United States, executed by the undersigned on October 12, 2001, and in said application and any and all other applications, both United States and foreign, which the undersigned may file, either solely or jointly with others, on said invention or improvements, and in any and all Letters Patent of the United States and foreign countries, which may be obtained on any of said applications, and in any reissue or extension thereof.

The undersigned hereby authorizes and requests the Commissioner of Patents and Trademarks to issue said Letters Patent to said assignee.

The undersigned hereby authorizes and requests the attorneys of record in said application to insert in this assignment the execution date and/or filing date and serial number of said application when officially known.

The undersigned warrants himself to be the owner of the interest herein assigned and to have the right to make this assignment and further warrants that there are no outstanding prior assignments, licenses, or other rights in the interest herein assigned.

For said consideration the undersigned hereby agrees, upon the request and at the expense of said assignee, its successors and assigns, to execute any and all divisional, continuation, continuation-in-part and substitute applications for said invention or improvements, and any necessary oath or affidavit relating thereto, and any application for the reissue or extension of any Letters Patent that may be granted upon said application, and any and all applications and other documents for Letters Patent in foreign countries on said invention or improvements, that said assignee, its successors or assigns, may deem necessary or expedient, and for said consideration the undersigned further agrees upon the request of said assignee, its successors or assigns, in the event of any application or Letters Patent assigned herein becoming involved in Interference, to cooperate to the best of the ability of the undersigned with said assignee, its successors or assigns, in the matters of preparing and executing the preliminary statement and giving and producing evidence in support thereof, the undersigned hereby agreeing to perform, upon request, any and all affirmative acts to obtain said Letters Patent, both United States and foreign, and vest all rights therein hereby conveyed in said assignee, its successors and assigns, whereby said Letters Patent will be held and enjoyed by said assignee, its successors and assigns, to the full end of the term for which said Letters Patent may be granted as fully and entirely as the same would have been held and enjoyed by the undersigned if this assignment and sale had not been made.

WITNESS my hand this 12 day of OCTOBER, 2001.

State of Texas

County of Travis

} ss

Michael G. Ott  
Michael G. Ott

On this 12 day of OCTOBER, 2001, before me, a Notary Public in and for the County and State aforesaid, appeared Micheal G. Ott, to me personally known to be the same person whose name is subscribed to the foregoing instrument, and acknowledged that he executed said instrument as his free and voluntary act and for the uses and purposes therein expressed.

WITNESS my hand and seal the same day and year last above given.

My Commission Expires: 8/7/2002

Sondra J. Glicker  
Notary Public

